

## HOUSE BILL NO. 639

INTRODUCED BY D. BARRETT, MASOLO

BY REQUEST OF THE SECRETARY OF STATE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HOW FEES CHARGED BY THE SECRETARY OF STATE MAY BE SET; ELIMINATING THE REQUIREMENT THAT THE FEES MUST BE COMMENSURATE WITH COSTS ON A FEE-BY-FEE BASIS; PROVIDING THAT THE FEES MUST BE REASONABLY COMMENSURATE WITH OVERALL COSTS AND REASONABLY REFLECT PREVAILING RATES FOR SIMILAR SERVICES; PROVIDING THAT THE FEES BE DEPOSITED TO AN ACCOUNT IN THE ENTERPRISE FUND TYPE; AMENDING SECTIONS 1-5-408, 2-4-311, 2-4-312, 2-4-313, 2-6-103, 2-6-110, 7-13-2509, 13-2-115, 13-27-208, 27-18-411, 30-9-403, 30-9-407, 30-9-545, 30-13-217, 30-13-320, 35-1-1206, 35-1-1207, 35-2-1003, 35-5-205, 35-6-201, 35-8-211, 35-8-212, 35-12-521, 35-15-201, 35-15-205, 35-17-205, AND 35-18-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Fees charged by secretary of state -- deposit to account -- rulemaking.**

(1) The secretary of state shall, FOR FEES CHARGED BY THE SECRETARY OF STATE, set by administrative rule each fee authorized by law.

(2) Unless otherwise specified by law, fees:

(a) must be commensurate with the overall costs of the office of the secretary of state; and

(b) must reasonably reflect the prevailing rates charged in the public and private sectors for similar services.

(3) The secretary of state shall maintain records sufficient to support the fees established pursuant to this section.

(4) Except as otherwise provided by law, fees collected by the secretary of state must be deposited to an account in the enterprise fund type to the credit of the secretary of state. All income and interest earned on money in the account must be credited to the account.

**Section 2.** Section 1-5-408, MCA, is amended to read:

1       **"1-5-408. Fees for filing commission and issuing certificates.** The secretary of state shall set ~~by~~  
2 ~~rule the and deposit~~ fees in accordance with [section 1] for filing or issuing certificates. ~~The fees must be~~  
3 ~~commensurate with costs.~~ The secretary of state shall use application forms soliciting the information  
4 required by this part. The county clerk of any county in this state shall receive a fee as provided in  
5 7-4-2631 for filing a copy of the commission and certifying to the official character."

6  
7       **Section 3.** Section 2-4-311, MCA, is amended to read:

8       **"2-4-311. Publication and arrangement of ARM.** (1) The secretary of state shall compile, index,  
9 arrange, rearrange, correct errors or inconsistencies without changing the meaning, intent, or effect of any  
10 rule, and publish in the appropriate format all rules filed pursuant to this chapter in the ARM. The secretary  
11 of state shall supplement, revise, and publish the ARM or any part of the ARM as often as the secretary  
12 of state considers necessary. The secretary of state may include editorial notes, cross-references, and  
13 other matter that the secretary of state considers desirable or advantageous. The secretary of state shall  
14 publish supplements to the ARM at the times and in the form that the secretary of state considers  
15 appropriate.

16       (2) The ARM must be arranged, indexed, and printed or duplicated in a manner that permits  
17 separate publication of portions relating to individual agencies. An agency may make arrangements with  
18 the secretary of state for the printing of as many copies of the separate publications as it may require. The  
19 ~~cost of~~ secretary of state may charge a fee for any separate publications, ~~determined.~~ The fee must be  
20 set and deposited in accordance with ~~2-4-313(4),~~ [section 1] and must be paid by the agency."

21  
22       **Section 4.** Section 2-4-312, MCA, is amended to read:

23       **"2-4-312. Publication and arrangement of register.** (1) The secretary of state shall publish in the  
24 register all notices, rules, and interpretations filed with the secretary of state at least once a month but  
25 not more often than twice a month.

26       (2) The secretary of state shall send the register without charge to each person listed in  
27 2-4-313(1) and to each member of the legislature requesting the register. The secretary of state shall send  
28 the register to any other person who pays a subscription fee, which must be established ~~as provided in~~  
29 ~~2-4-313(4)~~ and deposited in accordance with [section 1].

30       (3) The register must contain three sections, a rules section, a notice section, and an interpretation

1 section, as follows:

2 (a) The rules section of the register must contain all rules filed since the compilation and  
3 publication of the preceding issue of the register, together with the concise statement of reasons required  
4 under 2-4-305(1).

5 (b) The notice section of the register must contain all rulemaking notices filed with the secretary  
6 of state pursuant to 2-4-302 since the compilation and publication of the preceding register.

7 (c) The interpretation section of the register must contain all opinions of the attorney general and  
8 all declaratory rulings of agencies issued since the publication of the preceding register.

9 (4) Each issue of the register must contain the issue number and date of the register and a table  
10 of contents. Each page of the register must contain the issue number and date of the register of which  
11 it is a part. The secretary of state may include with the register information to help the user in relating the  
12 register to the ARM."

13

14 **Section 5.** Section 2-4-313, MCA, is amended to read:

15 **"2-4-313. Distribution, costs, and maintenance.** (1) The secretary of state shall distribute copies  
16 of the ARM and supplements or revisions to the ARM to the following:

17 (a) attorney general, one copy;

18 (b) clerk of United States district court for the district of Montana, one copy;

19 (c) clerk of United States court of appeals for the ninth circuit, one copy;

20 (d) county commissioners or governing body of each county of this state, for use of county  
21 officials and the public, at least one but not more than two copies, which may be maintained in a public  
22 library in the county seat or in the county offices as the county commissioners or governing body of the  
23 county may determine;

24 (e) state law library, one copy;

25 (f) state historical society, one copy;

26 (g) each unit of the Montana university system, one copy;

27 (h) law library of the university of Montana-Missoula, one copy;

28 (i) legislative services division, two copies;

29 (j) library of congress, one copy;

30 (k) state library, one copy.

(2) The secretary of state, each county in the state, and the librarians for the state law library and the university of Montana-Missoula law library shall maintain a complete, current set of the ARM, including supplements or revisions to the ARM. The designated persons shall also maintain the register issues published during the preceding 2 years. The secretary of state shall maintain a permanent set of the registers.

(3) The secretary of state shall make copies of and subscriptions to the ARM and supplements or revisions to the ARM and the register available to any person at prices for a fee fixed set in accordance with subsection ~~(4)~~ (5).

~~(4) The secretary of state shall determine the cost of supplying copies of the ARM and supplements or revisions to the ARM and the register to persons not listed in subsection (1). The cost must be the approximate cost of publication of the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in the cost of printing different parts of the ARM and supplements or revisions to the ARM and the register. Fees are not refundable.~~

~~(5) The secretary of state shall deposit all fees in a proprietary fund.~~

~~(6)(4) The secretary of state may charge agencies a filing fee for all material to be published in the ARM or the register.~~

(5) The secretary of state shall fix set and deposit the fee to cover the costs of supplying copies of the ARM and supplements or revisions to the ARM and the register to the persons listed in subsection (1). The cost must be the approximate cost of publication of the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in the cost of printing different parts of the ARM and supplements or revisions to the ARM and the register fees authorized in this section in accordance with [section 1]."

**Section 6.** Section 2-6-103, MCA, is amended to read:

**"2-6-103. Filing and copying fees.** (1) The secretary of state, ~~for services performed in the office,~~ shall charge and collect fees ~~commensurate with costs~~ for filing and copying services.

(2) A member of the legislature or state or county officer may not be charged for any search relative to matters appertaining to the duties of the member's office or for a certified copy of any law or resolution passed by the legislature relative to the member's official duties.

(3) The secretary of state may not charge a fee, other than the fees authorized in 2-6-110, for providing electronic information.

(4) Fees must be collected in advance and, when collected by the secretary of state, are not refundable ~~and must be deposited into an account in the proprietary fund to the credit of the secretary of state. All income and interest earned on money in the account must be credited to the account.~~

(5) Fees authorized by this section must be set and deposited in accordance with [section 1]."

**Section 7.** Section 2-6-110, MCA, is amended to read:

**"2-6-110. Electronic information and nonprint records -- public access -- fees.** (1) (a) Except as provided by law, each person is entitled to a copy of information compiled, created, or otherwise in the custody of public agencies that is in electronic format or other nonprint media, including but not limited to videotapes, photographs, microfilm, film, or computer disk, subject to the same restrictions applicable to the information in printed form. All restrictions relating to confidentiality, privacy, business secrets, and copyright are applicable to the electronic or nonprint information.

(b) The provisions of subsection (1)(a) do not apply to collections of the Montana historical society established pursuant to 22-3-101.

(2) Except as provided by law and subject to subsection (3), an agency may charge a fee, not to exceed:

(a) the agency's actual cost of purchasing the electronic media used for transferring data, if the person requesting the information does not provide the media;

(b) expenses incurred by the agency as a result of mainframe and midtier processing charges;

(c) expenses incurred by the agency for providing online computer access to the person requesting access;

(d) other out-of-pocket expenses directly associated with the request for information; and

(e) the hourly rate for the current fiscal year for a state employee classified as grade 10, market salary, under 2-18-312 for each hour, or fraction of an hour, after one-half hour of copying service has been provided.

(3) (a) In addition to the allowable fees in subsection (2), the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to

persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative agency or committee.

(b) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.

(c) All fees received by the department of revenue under subsection (2) and this subsection (3) must be deposited in a state special revenue fund as provided in 15-1-521.

(d) Fees charged by the secretary of state pursuant to this section must be set and deposited in accordance with [section 1].

(4) For the purposes of this section, the term "agency" has the meaning provided in 2-3-102 but includes legislative, judicial, and state military agencies.

(5) An agency may not charge more than the amount provided under subsection (2) for providing a copy of an existing nonprint record.

(6) An agency shall ensure that a copy of information provided to a requester is of a quality that reflects the condition of the original if requested by the requester.

(7) This section does not authorize the release of electronic security codes giving access to private information."

**Section 8.** Section 7-13-2509, MCA, is amended to read:

**"7-13-2509. Resolution to create district.** (1) If the board of county commissioners desires to create the television district, they shall adopt a resolution describing the proposed system, including type of construction, location, and type and approximate cost of any installation to be made, describing the boundaries of ~~such the~~ the district, and finding that the district will be conducive to the public interest and convenience; ~~and thereby such that the~~ that the district ~~shall~~ be created.

(2) If the board passes a resolution creating ~~such a~~ a television district, they shall name the district "..... television district" and shall file a copy of the order creating ~~such the~~ the district, if only one county is included ~~therein in the district~~, with the county clerk and recorder. If portions of more than one county are included in ~~said the~~ the district, a copy of the order ~~shall~~ must be filed in each county. A copy of the order

1 ~~shall must~~ be filed with the secretary of state, for ~~which he shall receive a fee of \$5, which must be set~~  
2 ~~and deposited in accordance with [section 1].~~"

3

4 **Section 9.** Section 13-2-115, MCA, is amended to read:

5 **"13-2-115. Registration lists to be prepared.** (1) Except as provided in subsections (6) and (7),  
6 immediately after registration is closed, the election administrator shall prepare and ~~must~~ have printed lists  
7 of all registered electors in each precinct. Names of electors must be listed alphabetically, with their  
8 residence address or with a mailing address if located where street numbers are not used. A preliminary  
9 list of registered electors may be printed before the close of registration for an election. If a preliminary  
10 list is printed, a supplementary list must be printed after the close of registration.

11 (2) A copy of the list of registered voters must be displayed at the polling place. Extra copies of  
12 the lists must be retained by the election administrator and furnished to an elector upon request.

13 (3) The list of registered electors prepared for a primary election may be used for the general  
14 election if a supplemental list giving the additions and deletions since the primary list was prepared is  
15 printed. The election administrator may prepare lists for a special election, but lists are not required to be  
16 printed for special elections.

17 (4) Lists of registered voters need not be printed if the election will not be held.

18 (5) The election administrator shall forward a list of all registered electors in the county to the  
19 secretary of state, as provided in 13-2-123. The secretary of state shall use the lists submitted by election  
20 administrators to compile and maintain a list of all registered electors in the state. Upon written request,  
21 the secretary of state shall furnish to any elector, for noncommercial use, a current list of registered  
22 electors. Upon delivery of the list to the elector, the secretary of state shall charge and collect a fee  
23 ~~commensurate with the cost of compiling and maintaining the list and of reproducing the list in the format~~  
24 ~~requested by the elector, which must be set and deposited in accordance with [section 1].~~

25 (6) If a law enforcement officer or reserve officer, as defined in 7-32-201, requests in writing that,  
26 for security reasons, the officer's and the officer's spouse's residential address, if the same as the  
27 officer's, not be disclosed, the registrar may not include the address on any list of registered voters but  
28 ~~shall~~ may list only the name or names.

29 (7) (a) Upon the request of an individual, an election administrator may not include the individual's  
30 residential address on any list of registered voters but ~~shall~~ may list only the name or names if the

1 individual:

2 (i) proves to the election administrator that the individual, or a minor in the custody of the  
3 individual, has been the victim of partner or family member assault, stalking, custodial interference, or  
4 other offense involving bodily harm or threat of bodily harm to the individual or minor; or

5 (ii) proves to the election administrator that a temporary restraining order or injunction has been  
6 issued by a judge or magistrate to restrain another person's access to the individual or minor.

7 (b) Proof of the victimization is conclusive upon exhibition to the election administrator of a  
8 criminal judgment, information and judgment, or affidavit of a county attorney clearly indicating the  
9 conviction and the identity of the victim.

10 (c) Proof of the issuance of a temporary restraining order or injunction is conclusive upon  
11 exhibition to the election administrator of the temporary restraining order or injunction."

12

13 **Section 10.** Section 13-27-208, MCA, is amended to read:

14 **"13-27-208. Petitions to be made available in each county election administrator's office.** When  
15 the secretary of state sends written notice of the final approval of a petition as required under  
16 13-27-202(4), the secretary of state shall forward a copy of the petition, along with signature sheets, to  
17 the election administrator of each county. The election administrator shall make a copy of each approved  
18 petition available for reading and signing in the administrator's office during business hours in an election  
19 year until the petitions are submitted under 13-27-301. The secretary of state may charge the person who  
20 submitted the petition a fee ~~sufficient to reimburse the secretary of state for the cost of providing copies~~  
21 ~~of the petition and signature sheets to each county election administrator,~~ which must be set and  
22 deposited in accordance with [section 1]."

23

24 **Section 11.** Section 27-18-411, MCA, is amended to read:

25 **"27-18-411. Duty of secretary of state -- fees.** (1) ~~Upon such~~ When service being so of an order  
26 of a writ of execution is made upon through the secretary of state or ~~his~~ the secretary of state's deputy,  
27 the secretary of state or ~~his~~ the deputy shall promptly mail the copy of the writ, notice, and copy of ~~said~~  
28 the order by registered or certified mail to the address of such the corporation at its principal home office,  
29 as shown by the papers on file in the office of the secretary of state, and. The office of the secretary of  
30 state shall make fill out and mail to the clerk of the court in which the action is pending a certificate of



1 ~~such the mailing, which and shall have attached thereto~~ attach the registry receipt for ~~such the letter, that~~  
2 ~~such attachment so made upon the secretary of state as herein provided shall.~~ The order must be effective  
3 and the ~~said stock or shares or the interest therein~~ specified assets of the defendant ~~shall~~ must be  
4 attached upon the service of the writ, as ~~herein~~ provided in this section.

5 (2) At the time ~~of the service of said the writ is served,~~ there shall be paid to the secretary of  
6 state shall charge and collect a fee of \$2, ~~which shall be by him paid into the state treasury and,~~ which  
7 must be set and deposited in accordance with [section 1]. The fee may be ~~taxed~~ claimed as a cost by the  
8 plaintiff."  
9

10 **Section 12.** Section 30-9-403, MCA, is amended to read:

11 **"30-9-403. (Temporary) What constitutes filing -- duration of filing -- fees -- effect of lapsed filing**  
12 **-- duties of filing officer -- computerized farm statement system.** (1) (a) Presentation for filing of a financing  
13 statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing  
14 under this chapter.

15 (b) The secretary of state may treat a facsimile copy of a document and the signatures on the  
16 facsimile copy in the same manner as an original for purposes of 30-9-402 and subsection (1)(a) of this  
17 section. If all other requirements are met, the date of filing relates back to the date of receipt of the  
18 facsimile copy.

19 (c) A person who files a false document by facsimile copy is liable to the party aggrieved for three  
20 times the amount of damages resulting from the filing of the false document.

21 (2) Except as provided in subsection (6), a filed financing statement is effective for a period of 5  
22 years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of  
23 the 5-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected  
24 by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security  
25 interest remains perfected until 60 days after termination of the insolvency proceedings or until expiration  
26 of the 5-year period, whichever occurs later. Upon lapse the security interest becomes unperfected unless  
27 it is perfected without filing. If the security interest becomes unperfected upon lapse, it is considered to  
28 have been unperfected as against a person who became a purchaser or lien creditor before lapse.

29 (3) A continuation statement may be filed by the secured party within 6 months prior to the  
30 expiration of the 5-year period specified in subsection (2). Any continuation statement must be signed by

1 the secured party, identify the original statement by file number, and state that the original statement is  
2 still effective. A continuation statement signed by a person other than the secured party of record must  
3 be accompanied by a separate written statement of assignment signed by the secured party of record and  
4 complying with 30-9-405(2), including payment of the required fee. Upon timely filing of the continuation  
5 statement, the effectiveness of the original statement is continued for 5 years after the last date to which  
6 the filing was effective, after which it lapses in the same manner as provided in subsection (2) unless  
7 another continuation statement is filed prior to the lapse. Succeeding continuation statements may be filed  
8 in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition  
9 of public records provides otherwise, the filing officer may remove a lapsed statement from the files and  
10 destroy it immediately if the filing officer has retained a microfilm or other photographic record or a record  
11 produced according to rules adopted by the secretary of state or, in other cases after 1 year after the  
12 lapse, upon approval by the local government records destruction subcommittee provided for in 2-6-403.  
13 The filing officer shall arrange matters by physical annexation of financing statements to continuation  
14 statements or other related filings, or by other means, that if the filing officer physically destroys the  
15 financing statements of a period more than 5 years past, those that have been continued by a continuation  
16 statement or that are still effective under subsection (6) must be retained.

17 (4) Except as provided in subsection (7), a filing officer shall mark each statement with a file  
18 number and with the date and hour of filing. The filing officer shall hold the statement or a microfilm or  
19 other photographic copy or a copy produced according to rules adopted by the secretary of state for public  
20 inspection. In addition, the filing officer shall index the statements according to the name of the debtor  
21 and shall note in the index the file number and the address of the debtor given in the statement.

22 (5) The uniform fees for filing, indexing, and stamping a copy furnished by the filing party to show  
23 the date and place of filing must be set pursuant to subsection (12).

24 (6) If the debtor is a transmitting utility and a filed financing statement so states, it is effective  
25 until a termination statement is filed. A real estate mortgage that is effective as a fixture filing under  
26 30-9-402(6) remains effective as a fixture filing until the mortgage is released or satisfied of record or its  
27 effectiveness otherwise terminates as to the real estate.

28 (7) When a financing statement covers timber to be cut or covers minerals or the like (including  
29 oil and gas) or accounts subject to 30-9-103(5) or is filed as a fixture filing, the filing officer shall index  
30 it under the names of the debtor and any owner of record shown on the financing statement in the same

1 fashion as if they were the mortgagors in a mortgage of the real estate described and, to the extent that  
2 the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name  
3 of the secured party as if the secured party were the mortgagee under the financing statement or, if  
4 indexing is by description, in the same fashion as if the financing statement were a mortgage of the real  
5 estate described.

6 (8) When a financing or continuation statement filed by a financial institution covers farm products  
7 or accounts, livestock, general intangibles arising from or relating to the sale of farm products by a farmer,  
8 crops growing or to be grown, or equipment used in farming operations, the fee for filing must be  
9 ~~established~~ set and deposited by the secretary of state in ~~an amount commensurate with the costs of~~  
10 ~~establishing and operating the computerized access system described in subsection (9)~~ accordance with  
11 [section 1].

12 (9) Within 1 working day of receipt of a financing or continuation statement, the secretary of state  
13 shall record the information contained in the statement on a centralized computer system that the  
14 secretary of state shall establish. The computer system must allow access to financing statement  
15 information by any type of communications that conform to standards used by the state central computer.  
16 The system must have safeguards to allow only access to UCC data and to prevent alteration, addition,  
17 or deletion of the UCC data. The computer must be accessible whenever the state computer system is  
18 available. A perfected security interest is not created until the financing statement information is recorded  
19 on the system. A printout of information from the system is prima facie evidence of the existence or  
20 nonexistence of the filing of a financing statement. The secretary of state shall maintain adequate errors  
21 and omissions liability coverage to protect against input errors causing loss to a secured party.

22 (10) The secretary of state shall, upon request of a clerk and recorder, mail a certified copy of a  
23 financing statement, continuation statement, assignment, amendment, or termination covering collateral  
24 described in subsection (8) to the clerk and recorder in the county of the principal debtor's residence. The  
25 secretary of state shall mail the requested copies at least once each week. This subsection does not  
26 require the secretary of state to mail a copy of any document that does not specifically indicate the county  
27 of the principal debtor's residence on its face.

28 (11) Financing statement information in the computer system constitutes public writings within  
29 the meaning of 2-6-101, but the information may not be used to compile mailing lists.

30 (12) The secretary of state, with advice from the county clerk and recorders, shall ~~by~~

~~1 administrative rule establish fees as required by this part. The fees must be commensurate with the costs~~  
~~2 of processing the documents. The secretary of state shall maintain records sufficient to support the~~  
~~3 amounts of the fees established under this subsection. The secretary of state shall deposit all fees in the~~  
~~4 enterprise fund in the state treasury~~ set and deposit the fees required by this part in accordance with  
[section 1]. The secretary of state shall disseminate the uniform fee schedule to the county clerk and  
6 recorders for their use. (Repealed effective July 1, 2001--secs. 168, 171, Ch. 305, L. 1999.)"

7

8 **Section 13.** Section 30-9-407, MCA, is amended to read:

9 **"30-9-407. (Temporary) Information from filing officer -- fees.** (1) If the person filing any financing  
10 statement, termination statement, statement of assignment, or statement of release furnishes the filing  
11 officer a copy of the statement, the filing officer shall upon request note upon the copy the file number  
12 and date and hour of the filing of the original and deliver or send the copy to the person.

13 (2) Upon request of any person, the filing officer shall issue a certificate showing whether there  
14 is on file on the date and hour stated in the certificate, any presently effective financing statement naming  
15 a particular debtor and any statement of assignment and, if there is, giving the date and hour of filing of  
16 each statement and the name and address of each secured party in the statement. For financing  
17 statements recorded on the system described in 30-9-403(9), the filing officer shall, upon request of any  
18 person, also furnish written information concerning the collateral described for any presently effective  
19 financing statement covering collateral described in 30-9-403(8). However, the information is not a part  
20 of the filing officer's certificate and may not constitute a complete description of the collateral covered  
21 by the financing statement. The uniform fee for a certificate and description of collateral must be set and  
22 deposited pursuant to ~~30-9-403~~ [section 1]. Upon request the filing officer shall furnish a copy of any filed  
23 financing statement or statement of assignment for a uniform fee of ~~50 cents per page~~ set and deposited  
24 in accordance with [section 1].

25 (3) A computer printout from the system described in 30-9-403(9) constitutes the certificate of  
26 the secretary of state as to whether there is on file, on the date and hour stated on the printout, a  
27 financing statement covering the collateral described in 30-9-403(8). The fee for requesting a printout from  
28 the secretary of state must ~~cover the cost of the printout~~ be set and deposited in accordance with [section  
29 1]. If a certificate is made on a requestor's own computer using telephone dial-up access, a fee  
30 ~~commensurate with costs~~ must be set, charged, and deposited in accordance with [section 1].

(4) The secretary of state shall ensure that the system described in 30-9-403(9) complies with the requirements for a central filing system as defined by 7 U.S.C. 1631 as that statute read on January 1, 1987. The secretary of state shall distribute portions of the master list to registered buyers at least once each month. The secretary of state may distribute portions of the master list more frequently if the secretary of state determines it is necessary to improve the flow of agricultural credit. (Repealed effective July 1, 2001--secs. 168, 171, Ch. 305, L. 1999.)"

**Section 14.** Section 30-9-545, MCA, is amended to read:

**"30-9-545. (Effective July 1, 2001) Fees.** (1) Except as otherwise provided in subsection ~~(5)~~ (2), the fee for each of the following must be set and deposited by the secretary of state as prescribed in [section 1]:

(a) filing and indexing a record under this part, other than an initial financing statement of the kind described in 30-9-522(3); must be commensurate with costs and must be established by rule.

~~(2) Except as otherwise provided in subsection (5), the fee for~~

(b) filing and indexing an initial financing statement of the kind described in 30-9-522(3) must be commensurate with costs and must be established by rule.

~~—— (3) The number of names required to be indexed does not affect the amount of the fees in subsections (1) and (2).~~

~~—— (4) The fee for, and~~

(c) responding to a request for information from the filing office, including for communicating whether there is on file any financing statement naming a particular debtor; must be commensurate with costs and must be established by rule.

~~(5)~~(2) This section does not require a fee with respect to a record of mortgage that is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under 30-9-522(3). However, the recording and satisfaction fees that otherwise would be applicable to the record of mortgage apply."

**Section 15.** Section 30-13-217, MCA, is amended to read:

**"30-13-217. Fees and charges to be established and collected by secretary of state.** (1) The secretary of state shall ~~by administrative rule~~ establish, charge, ~~and collect,~~ and deposit, in accordance

with the provisions of this part and commensurate with costs [section 1]:

(a) fees for filing documents and issuing certificates pursuant to this part; and

(b) miscellaneous charges for other services provided by the secretary of state pursuant to this part; and-

~~(2) The secretary of state shall maintain records sufficient to support the fees and miscellaneous charges established under this section.~~

~~(3) In addition to the fees and charges in subsection (1), the secretary of state shall charge and collect~~

~~(c) a license fee from each limited liability partnership a license fee of:~~

~~(a) \$50 at the time of registration under 30-13-203; and~~

~~(b) \$50 at the time of each renewal of registration under 30-13-206 through 30-13-208.~~

~~(4)(2) Fees and charges established under this section may be paid by credit card and may be discounted for payment processing charges paid by the secretary of state to a third party."~~

**Section 16.** Section 30-13-320, MCA, is amended to read:

**"30-13-320. Secretary of state to establish and collect fees commensurate with costs.** The secretary of state shall ~~by administrative rule establish and~~ provide for collection of fees and miscellaneous charges, set and deposited in accordance with [section 1], for filing documents and issuing certificates as required by this part. ~~The fees must be commensurate with the costs of processing the documents and certificates. The secretary of state shall maintain records sufficient to support the fees and miscellaneous charges established under this part."~~

**Section 17.** Section 35-1-1206, MCA, is amended to read:

**"35-1-1206. Fees for filing, copying, and services.** (1) The secretary of state shall establish ~~by rule~~ fees for the following:

(a) filing documents and issuing certificates as required by this chapter; and

~~(2) The secretary of state shall establish by rule fees for~~

(b) copying documents, priority handling, transmitting or filing facsimile copies, and providing computer-generated information.

~~(3) The fees prescribed under this section must be reasonably related to the costs of processing~~

~~the documents and preparing and providing the services. The secretary of state shall maintain records sufficient to support the fees established under this section.~~

(2) Fees authorized under this section must be set and deposited in accordance with [section 1]."

**Section 18.** Section 35-1-1207, MCA, is amended to read:

**"35-1-1207. License fee.** (1) In addition to the filing fee authorized by 35-1-1206, the secretary of state shall charge and collect from each domestic corporation a license fee ~~based upon the number of shares that it will have authority to issue~~ at the time of:

(a) filing its articles of incorporation;

(b) filing articles of amendment ~~increasing the number of authorized shares~~; and

(c) filing articles of merger or consolidation ~~increasing the number of authorized shares that the surviving or new corporation, if a domestic corporation, will have authority to issue above the aggregate number of shares that the constituent domestic corporations and constituent foreign corporations authorized to transact business in this state have authority to issue.~~

(2) The license fee for domestic corporations ~~is as follows~~:

<del>_____ (a) 1 to 50,000 shares . . . . .</del>	<del>\$ 50</del>
<del>_____ (b) 50,001 to 100,000 shares . . . . .</del>	<del>100</del>
<del>_____ (c) 100,001 to 250,000 shares . . . . .</del>	<del>250</del>
<del>_____ (d) 250,001 to 500,000 shares . . . . .</del>	<del>400</del>
<del>_____ (e) 500,001 to 1,000,000 shares . . . . .</del>	<del>600</del>
<del>_____ (f) over 1,000,000 shares . . . . .</del>	<del>1,000</del>

must be set and deposited in accordance with [section 1].

~~(3) If the domestic corporation is increasing the number of authorized shares either by amendment or by merger, the domestic corporation shall pay the difference in license fee between the fee based on the initial number of authorized shares and the amended number of shares.~~

~~(4)~~ In addition to the filing fee authorized by 35-1-1206, the secretary of state shall charge and collect from each foreign corporation a license fee ~~of \$100~~ at the time of filing an application for a certificate of authority to transact business. The fee must be set and deposited in accordance with [section 1]."

1       **Section 19.** Section 35-2-1003, MCA, is amended to read:

2       **"35-2-1003. Fees for filing, copying, and services.** (1) The secretary of state shall establish ~~by~~  
3 ~~rule~~ fees for the following:

4       (a) filing documents and issuing certificates as required by this chapter; and

5       ~~(2) The secretary of state shall by rule establish fees for~~

6       (b) copying documents, priority handling, transmitting; or filing facsimile copies, ~~and for~~ providing  
7 computer-generated information.

8       ~~(3) The fees presented under this section must be reasonably related to the costs of processing~~  
9 ~~the documents and preparing and providing the services. The secretary of state shall maintain records~~  
10 ~~sufficient to support the fees established under this section.~~

11       (2) The fees authorized in this section must be set and deposited in accordance with [section 1]."

12  
13       **Section 20.** Section 35-5-205, MCA, is amended to read:

14       **"35-5-205. Taxes and fees.** Any business trust created under this chapter or entering this state  
15 pursuant to this chapter shall pay ~~such the~~ taxes and fees ~~as are~~ imposed by the laws, ordinances, and  
16 regulations of this state and ~~any its~~ counties and municipalities ~~thereof~~ on domestic and foreign  
17 corporations; ~~respectively, on an identical basis therewith.~~ Fees charged by the secretary of state pursuant  
18 to this chapter must be set and deposited in accordance with [section 1]."

19  
20       **Section 21.** Section 35-6-201, MCA, is amended to read:

21       **"35-6-201. Reinstatement of dissolved corporation -- fee.** (1) The secretary of state may:

22       (a) reinstate any corporation ~~which~~ that has been dissolved under the provisions of this chapter;  
23 and

24       (b) restore to ~~such the~~ corporation its right to carry on business in this state and to exercise all  
25 its corporate privileges and immunities.

26       (2) A corporation applying for reinstatement shall submit to the secretary of state one original and  
27 one copy of the application, executed by a person who was an officer or director at the time of dissolution,  
28 setting forth:

29       (a) the name of the corporation;

30       (b) a statement that the assets of the corporation have not been liquidated pursuant to 35-1-938



1 through 35-1-943 or 35-2-726 and 35-2-727;

2 (c) a statement that not less than a majority of its directors have authorized the application for  
3 reinstatement; and

4 (d) if its corporate name has been legally acquired by another corporation prior to its application  
5 for reinstatement, the corporate name under which the corporation desires to be reinstated.

6 (3) The corporation shall submit with its application for reinstatement:

7 (a) a certificate from the department of revenue stating that all taxes imposed pursuant to Title  
8 15 have been paid; and

9 (b) a filing fee ~~in an amount equal to one-half of the filing and license fees which the corporation~~  
10 ~~would be required to pay if the corporation were filing its articles of incorporation, which must be set and~~  
11 ~~deposited by the secretary of state in accordance with [section 1].~~

12 (4) When all requirements are met and the secretary of state reinstates the corporation to its  
13 former rights, ~~he~~ the secretary of state shall:

14 (a) conform and file in ~~his~~ the secretary of state's office reports, statements, and other  
15 instruments submitted for reinstatement;

16 (b) immediately issue and deliver to the corporation ~~so~~ that is reinstated a certificate of  
17 reinstatement authorizing it to transact business; and

18 (c) upon demand, issue to the corporation one or more certified copies of ~~such~~ the certificate of  
19 reinstatement.

20 (5) The secretary of state may not order a reinstatement if 5 years have elapsed since the  
21 dissolution."

22

23 **Section 22.** Section 35-8-211, MCA, is amended to read:

24 **"35-8-211. Fees for filing, copying, and services --rules.** (1) The secretary of state shall establish  
25 ~~by rule~~ fees for the following:

26 (a) filing documents as required by this chapter; and

27 ~~(2) The secretary of state shall establish by rule fees for~~

28 (b) copying documents, priority handling, transmitting or filing facsimile copies, and providing  
29 computer-generated information.

30 ~~(3) The fees prescribed under this section must be reasonably related to the costs of processing~~

1 ~~the documents and preparing and providing the services. The secretary of state shall maintain records~~  
2 ~~sufficient to support the fees established under this section.~~

3 (2) The fees authorized in the section must be set and deposited in accordance with [section 1]."

4

5 **Section 23.** Section 35-8-212, MCA, is amended to read:

6 **"35-8-212. License fee.** (1) In addition to the filing fee authorized by 35-8-211, the secretary of  
7 state shall charge and collect from each foreign limited liability company:

8 (a) a license fee of \$50 at the time of filing its articles of organization; and

9 ~~(2) In addition to the filing fee authorized by 35-8-211, the secretary of state shall charge and~~  
10 ~~collect from each foreign limited liability company~~

11 (b) a license fee of \$50 at the time of filing an application for a certificate of authority to transact  
12 business.

13 (2) The fees authorized in this section must be set and deposited in accordance with [section 1]."

14

15 **Section 24.** Section 35-12-521, MCA, is amended to read:

16 **"35-12-521. Secretary of state to establish fees.** The secretary of state shall set filing fees  
17 ~~reasonably related to the costs of~~ for processing the applications and certificates. The secretary of state  
18 may establish fees for filing a certificate of limited partnership, a certificate of amendment or restatement,  
19 a certificate of cancellation, an application to reserve a name, a notice of transfer of a reserved name, an  
20 application for registration of a foreign limited partnership, or a certificate of cancellation or correction of  
21 a foreign limited partnership or for filing any other statement or report of a domestic or foreign limited  
22 partnership. ~~The secretary of state shall maintain records sufficient to support the fee charged for the filing~~  
23 ~~requirements.~~ The fees authorized in this section must be set and deposited in accordance with [section  
24 1]."

25

26 **Section 25.** Section 35-15-201, MCA, is amended to read:

27 **"35-15-201. Incorporation.** (1) Whenever any number of persons, not less than three or more than  
28 seven, ~~may~~ desire to become incorporated as a cooperative association for the purpose of trade or of  
29 prosecuting any branch of industry or the purchase and distribution of commodities for consumption or  
30 in the borrowing or lending of money among members for industrial purposes, ~~they~~ the persons shall make

1 a statement to that effect ~~under their hands and~~ and setting forth:

2 (a) the name of the proposed corporation;

3 (b) its capital stock;

4 (c) its location;

5 (d) the duration of the association; and

6 (e) the particular branch or branches of industry ~~which that~~ they intend to prosecute.

7 (2) In addition to provisions required in subsection (1), the statement of incorporation may also  
8 contain provisions not inconsistent with law regarding liability as set forth in 35-1-216.

9 (3) The statement ~~shall~~ must be filed in the office of the secretary of state as the articles of  
10 incorporation of the association. The secretary of state shall ~~thereupon~~ issue to ~~such the~~ persons a license  
11 as commissioners to open books for subscription to the capital stock of ~~such the~~ corporation, at ~~such a~~  
12 time and place ~~as they that the persons~~ may determine, for which ~~he the secretary of state~~ shall ~~receive~~  
13 ~~the charge a fee of \$20 set and deposited in accordance with [section 1].~~"

14

15 **Section 26.** Section 35-15-205, MCA, is amended to read:

16 **"35-15-205. Amendment of articles of incorporation -- fee.** At any time after the filing of the  
17 certificate of complete organization, the articles of incorporation may be amended. Any amendment of the  
18 articles of incorporation ~~shall~~ must first be approved by two-thirds of the directors and then adopted by  
19 a vote of not less than two-thirds of those stockholders voting thereon at any regular meeting of the  
20 stockholders or at a special meeting of the stockholders called for that purpose. A certificate setting forth  
21 ~~such the~~ amendment ~~shall~~ must be executed on behalf of the association by its president or ~~vice-president~~  
22 ~~and vice president~~, its corporate seal must be affixed thereto to the certificate, and the certificate must  
23 be attested by its secretary. Such The certificate shall must be filed in the office of the secretary of state,  
24 who shall ~~thereupon~~ issue a certificate of amendment of the articles of incorporation, for which ~~he the~~  
25 secretary of state shall must receive ~~the sum of \$10 a fee that is set and deposited in accordance with~~  
26 [section 1]., and thereupon Upon the secretary of state's receipt of the fee, a certified copy of ~~such the~~  
27 certificate ~~shall~~ must be filed in the office of the county clerk in which the principal office of the  
28 association is located."

29

30 **Section 27.** Section 35-17-205, MCA, is amended to read:

1       **"35-17-205. Fees for filing articles and amendments thereto.** For filing articles of incorporation  
2 and receiving a certificate of incorporation, an association organized ~~hereunder pursuant to this part~~ shall  
3 pay to the secretary of state ~~\$40 and~~ a fee for filing an amendment to the articles and a fee for receiving  
4 a certificate of amendment, ~~\$10~~. The fees must be set and deposited in accordance with [section 1]."  
5

6       **Section 28.** Section 35-18-502, MCA, is amended to read:

7       **"35-18-502. Fees to be charged by secretary of state.** (1) The secretary of state shall charge and  
8 collect a fee for each of the following:

- 9       ~~(1)(a)~~ filing articles of incorporation and issuing a certificate of incorporation, ~~\$40~~;  
10       ~~(2)(b)~~ filing articles of amendment and issuing a certificate of amendment, ~~\$10~~;  
11       ~~(3)(c)~~ filing articles of consolidation or merger and issuing a certificate of consolidation or merger;  
12       ~~\$10~~;  
13       ~~(4)(d)~~ filing articles of conversion and issuing a certificate of conversion, ~~\$10~~;  
14       ~~(5)(e)~~ filing a certificate of election to dissolve and issuing a certificate of election to dissolve, ~~\$10~~;  
15       ~~(6)(f)~~ filing articles of dissolution and issuing a certificate of dissolution, ~~\$10~~; and  
16       ~~(7)(g)~~ filing a certificate of change of principal office and issuing a certificate of change of principal  
17 office, ~~\$10~~.

18       (2) Fees pursuant to this section must be set and deposited in accordance with [section 1]."  
19

20       **NEW SECTION. SECTION 29. COORDINATION INSTRUCTION.** (1) IF SENATE BILL NO. 23 AND [THIS ACT] ARE  
21 BOTH PASSED AND APPROVED AND BOTH BILLS AMEND 30-9-545, THEN 30-9-545 MUST READ AS FOLLOWS:

22       **"SECTION 14. SECTION 30-9-545, MCA, IS AMENDED TO READ:**

23       **"30-9-545. (Effective July 1, 2001) Fees.** (1) Except as otherwise provided in subsection ~~(5)~~ (2),  
24 the fee for each of the following must be set and deposited by the secretary of state as prescribed in  
25 [section 1 of House Bill No. 639]:

26       (a) filing and indexing a record under this part, other than an initial financing statement of the kind  
27 described in 30-9-522(3), filed in connection with a public-finance transaction or a manufactured-home  
28 transaction must be commensurate with costs and must be established by rule;

29       ~~(2) Except as otherwise provided in subsection (5), the fee for~~

30       (b) filing and indexing an initial financing statement of the kind described in 30-9-522(3) must be

1 ~~commensurate with costs and must be established by rule.~~

2 ~~—— (3) The number of names required to be indexed does not affect the amount of the fees in~~  
 3 ~~subsections (1) and (2).~~

4 ~~—— (4) The fee for, and~~

5 (c) responding to a request for information from the filing office, including for communicating  
 6 whether there is on file any financing statement naming a particular debtor, ~~must be commensurate with~~  
 7 ~~costs and must be established by rule.~~

8 ~~(5)(2)~~ This section does not require a fee with respect to a record of mortgage that is effective  
 9 as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral  
 10 or timber to be cut under 30-9-522(3). However, the recording and satisfaction fees that otherwise would  
 11 be applicable to the record of mortgage apply. ""

12 (2) IF SENATE BILL NO. 122 AND [THIS ACT] ARE BOTH PASSED AND APPROVED:

13 (A) AND BOTH BILLS AMEND 35-15-201, THEN 35-15-201 MUST READ AS FOLLOWS:

14 **"SECTION 25. SECTION 35-15-201, MCA, IS AMENDED TO READ:**

15 **"35-15-201. Incorporation.** (1) Whenever ~~any number of persons, not less than three or more than~~  
 16 ~~seven, may~~ two or more persons desire to ~~become incorporated~~ incorporate as a cooperative association  
 17 for the purpose of trade or of ~~prosecuting~~ carrying out any branch of industry or the purchase and  
 18 distribution of commodities for consumption or in the borrowing or lending of money among members for  
 19 industrial purposes, ~~they~~ the persons shall ~~make~~ prepare a statement to that effect ~~under their hands~~  
 20 ~~setting that also sets~~ forth:

21 (a) the name of the proposed ~~corporation~~ cooperative association;

22 (b) its capital stock;

23 (c) its location;

24 (d) the duration of the association; and

25 (e) the particular branch or branches of industry ~~which they~~ that the association intend ~~intends~~  
 26 ~~to prosecute~~ carry out.

27 (2) In addition to ~~provisions~~ the items required in subsection (1), the statement of incorporation  
 28 may also contain provisions not inconsistent with ~~law regarding~~ the liability provisions as set forth in  
 29 35-1-216.

30 (3) The statement, accompanied by the required filing fee, set and deposited in accordance with

1 [section 1 of House Bill No. 639], shall must be filed in the office of the secretary of state as the articles  
2 of incorporation of the association. ~~The~~ After receiving the statement and the fee, the secretary of state  
3 shall ~~thereupon~~ issue to ~~such~~ the persons forming the association a license as commissioners to open  
4 books for subscription to the capital stock of ~~such corporation; the association~~ at such a time and place  
5 ~~as they~~ that the persons forming the association may determine, ~~for which he shall receive the fee of~~  
6 ~~\$20.~~""

7 (B) AND BOTH BILLS AMEND SECTION 35-15-205, THEN 35-15-205 MUST READ AS FOLLOWS:

8 "SECTION 26. SECTION 35-15-205, MCA, IS AMENDED TO READ:

9 "35-15-205. Amendment of articles of incorporation -- fee. At any time after the filing of the  
10 certificate of complete organization, the articles of incorporation may be amended. Any amendment of the  
11 articles of incorporation ~~shall first must~~ be first approved by two-thirds of the directors and then adopted  
12 by a vote of not less than two-thirds of those stockholders voting ~~thereon on the issue~~ at any regular  
13 meeting of the stockholders or at a special meeting of the stockholders called for that purpose. A  
14 certificate setting forth ~~such the~~ amendment shall must be executed on behalf of the association by its  
15 president or ~~vice-president~~ vice president and its ~~corporate seal affixed thereto and~~ attested to by its  
16 secretary. ~~Such~~ The certificate ~~shall must~~ be filed in the office of the secretary of state, who shall  
17 ~~thereupon~~ issue a certificate of amendment of the articles of incorporation, for which he the secretary of  
18 state shall must receive the sum of \$10, ~~and thereupon a certified copy of such certificate shall be filed~~  
19 ~~in the office of the county clerk in which the principal office of the association is located a fee that is set~~  
20 and deposited in accordance with [section 1 of House Bill No. 639].""

21

22 NEW SECTION. Section 30. Effective date. [This act] is effective July 1, 2001.

23

- END -